



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MICHAEL J. SULLIVAN
DIRECTOR

June 27, 1995
AO-95-23

Representative J. James Marzilli
State House, Room 236
Boston, MA 02133-1053

Re: M.G.L. c. 55, s. 13: definition of "elected officer"

Dear Representative Marzilli:

This letter is in response to your June 6, 1995 request for an advisory opinion regarding the application of M.G.L. c. 55, s. 13 to a person appointed to complete the term of an elected officer.

Section 13 states that "No person employed for compensation, other than an elected officer. . . shall directly or indirectly solicit or receive any gift, payment, contribution. . . or other thing of value for the political campaign purposes of any candidate for public office or of any political committee. . . ." (emphasis added).

You have asked if a person who is appointed to complete the unexpired term of an individual elected to office is an "elected officer" or a "person employed for compensation" subject to section 13. In particular, is an individual appointed to complete the term of an elected officer permitted to solicit contributions on behalf of a candidate's political committee?¹


Section 13 was enacted to "keep political fund raising and disbursing out of the hands of nonelective public employees..." Anderson v. City of Boston, 376 Mass. 178, 187 (1978). The statute focuses on the type of office, not the manner in which an individual came to hold the office, and creates a narrow exception for persons who serve in elective positions. It exempts persons holding elective office from the prohibition applicable to other public employees, perhaps in recognition of the fact that a person who would have to campaign to remain in office should reasonably be expected to solicit contributions.

¹ You ask if the person may solicit contributions for "the political committee organized on behalf of the appointing authority." Section 13 bars solicitation to benefit a political committee by "persons employed for compensation," and permits such solicitation by "elected officers," regardless of who the committee is organized to support.

Therefore, an individual appointed to complete an unexpired term is an "elected official," not a "person employed for compensation." Section 13 should not be read to prohibit solicitation or receipt of contributions in this instance, provided the person is not otherwise employed for compensation by the commonwealth or one of its subdivisions.²

This opinion is solely in the context of M.G.L. c. 55 and is based solely on the representations made in your letter. Should you have additional questions, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael J. Sullivan".

Michael J. Sullivan
Director

MJS/cp

² Persons who are elected to public office, but also are separately employed for compensation, may not solicit or receive political contributions. For example, an elected member of a school committee who is also a public school teacher, may not solicit or receive political contributions.